

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-021398
Issue No.: 2003;3003
Agency Case No.: [REDACTED]
Hearing Date: January 11, 2016
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 11, 2016, from Detroit, Michigan. The Petitioner appeared pro se. The Department was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefits for failing to complete the redetermination process?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a FAP and MA recipient.
2. On September 15, 2015, Petitioner was sent redetermination paperwork.
3. Petitioner allegedly returned the paperwork; however, this paperwork was not received by the Department.
4. On October 2, 2015, Petitioner was notified that the paperwork had not been received.
5. On October 19, 2015, Petitioner was sent notice that her MA benefits would close on November 1, 2015, unless the redetermination process was completed.
6. On November 1, 2015, Petitioner's FAP and MA cases were closed.

7. On November 9, 2015, Petitioner requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Failure to complete the redetermination process can result in case closure. BAM 210.

Petitioner alleges that her paperwork was returned by mail; the Department alleges that the paperwork was never received.

However, Petitioner has provided no evidence of mailing, and is thus not entitled to a presumption of mail receipt. Department records show no such mailing ever having been received.

That being said, the undersigned is more persuaded by the fact that, even though Petitioner was notified at least one month prior to case closure (per the Petitioner's own testimony) that their case would be closing, Petitioner took no steps to remedy the situation. Petitioner had ample time to contact the Department, request duplicate forms, or resend the forms in question. Petitioner did nothing, and chose to do nothing, even though Petitioner had been informed of the problem.

The undersigned can only evaluate whether the Department followed proper policy during a negative action. In the current matter, it appears that the Department followed all policy—no paperwork had been received, Petitioner had been notified regarding the

lack of paperwork and impending closure, and possessed no information regarding any problems.

Thus, at the time of the action in question, the Department had followed all policy, and had no information that would require a change of actions. Therefore, the undersigned has no choice but to find that the Department acted properly.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP and MA benefit cases.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/27/2016**

Date Mailed: **1/27/2016**

RJC/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion. MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

